

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

**Case No. A-6059**

**PETITION OF ROBERT W. LUDWIG, JR.**  
(Hearing held April 6, 2005)

**OPINION OF THE BOARD**  
(Effective date of Opinion, May 5, 2005)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioner proposes the construction of a new single-family dwelling that requires a 33.40 foot variance as it is within 32.90 feet of the established front building line. The required established building line is 66.30 feet.

Dean Packard, an engineer, appeared with the petitioner at the public hearing.

The subject property is Lot 18, Block 7, Edgemoor Subdivision, located at 7523 Hampden Lane, Bethesda, Maryland, 20814, in the R-90 Zone (Tax Account No. 0700485744).

Decision of the Board: Requested variance **granted**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes the demolition of the existing house and the construction of a new single-family dwelling.
2. Mr. Packard testified that the petitioner has a small, shallow lot and that the lot is the second smallest lot on the street. Mr. Packard testified that the required front lot line setback for the R-90 Zone is 30 feet.
3. Mr. Packard testified that the houses on the two lots to the north of the subject property are located closer to the street than the required 30 foot front yard setback and can not be used in the calculation of the established building line. The house on Part of Lot 1 is located 26.5 feet from the street and the house on Part of Lot 17 is located 22 feet from the street.

4. Mr. Packard testified that the houses on the three lots to the south of the subject property, that were used in the calculation of the established building line, are located a considerable distance from the street. The house on Lot 23 is located 53.5 feet from the street, the house on Lot 22 is located 51.5 feet from the street and the house on Lot 14 is located 94 feet from the street. See, Exhibit No. 4(b) [established build line calculation].
5. Mr. Packard testified that the application of the established building line to the subject property would result in a buildable envelope that would be fifteen feet in depth.

### **FINDINGS OF THE BOARD**

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

*(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The property is a shallow lot that is the second smallest lot on the petitioner's street. The application of the established building line to the subject property results in a buildable envelope that is fifteen feet in depth.

The Board finds that these are exceptional circumstances peculiar to the petitioner's property and that the strict application of the zoning regulations would result in practical difficulties to and an undue hardship upon the property owner.

*(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance request for the construction of a new single-family dwelling is the minimum reasonably necessary.

*(c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly*

*adopted and approved area master plan affecting the subject property.*

The Board finds that the proposed construction will continue the residential use of the property and that the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

*(d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that the proposed construction will not significantly change the view from the surrounding homes and that the variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of 33.40 feet from the required 66.30 established front building line for the construction of a new single-family dwelling is granted subject to the following conditions:

1. The petitioner shall be bound by all of his testimony and exhibits of record, and the testimony of his witnesses, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a) and 4(b) and 5(a) through 5(f).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

Board member Donna L. Barron was necessarily absent and did not participate in this Resolution. On a motion by Wendell M. Holloway, seconded by Angelo M. Caputo, with Louise L. Mayer and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the foregoing Resolution.

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Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 5th day of May, 2005.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.